

By: Hartnett

H.B. No. 397

Substitute the following for H.B. No. 397:

By: Martinez

C.S.H.B. No. 397

A BILL TO BE ENTITLED

AN ACT

relating to rules regarding return of service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 17, Civil Practice and Remedies Code, is amended by adding Section 17.030 to read as follows:

Sec. 17.030. RETURN OF SERVICE. (a) The supreme court shall adopt rules of civil procedure requiring a person who serves process to complete a return of service.

(b) The rules:

(1) must provide that the return of service:

(A) is not required to be endorsed or attached to the original process issued; and

(B) may be electronically filed; and

(2) may require that the following information be included in the return of service:

(A) the cause number and case name;

(B) the court in which the case has been filed;

(C) the date and time process was received for service;

(D) the person or entity served;

(E) the address served;

(F) the date of service;

(G) the manner of delivery of service;

1 (H) a description of process served;

2 (I) the name of the person serving process; and

3 (J) if the process server is certified as a
4 process server by the supreme court, the process server's
5 identification number.

6 (c) A person certified by the supreme court as a process
7 server or a person authorized outside of Texas to serve process
8 shall sign the return of service under penalty of perjury. The
9 return of service is not required to be verified.

10 (d) A person who knowingly or intentionally falsifies a
11 return of service may be prosecuted for tampering with a
12 governmental record as provided by Chapter 37, Penal Code.

13 SECTION 2. Section 17.065(b), Civil Practice and Remedies
14 Code, is amended to read as follows:

15 (b) The return of service under this section [~~shall be~~
16 ~~endorsed on or attached to the original process issued and~~] must:

17 (1) state when it was served;

18 (2) state on whom it was served; and

19 (3) be signed under penalty of perjury [~~and sworn to~~
20 by the party making the service [~~before a person authorized by law~~
21 ~~to make an affidavit under his hand and seal~~].

22 SECTION 3. Section 17.030, Civil Practice and Remedies
23 Code, as added by this Act, and Section 17.065, Civil Practice and
24 Remedies Code, as amended by this Act, apply to all process served
25 on or after January 1, 2010, without regard to whether the process
26 was issued before, on, or after that date.

27 SECTION 4. This Act takes effect January 1, 2010.